
Procedures for

Filing Initiatives and Referendums in Washington State

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Introduction

In 1912, Washington became one of the first states to adopt the initiative and referendum process, thus securing the rights of citizens to make and remake their laws, and to provide a check over the decisions of their Legislature.

Today, if Washingtonians are dissatisfied with certain laws or feel that new laws are needed, they can petition to place proposed legislation on the ballot. It is because the electorate can initiate legislation that the process is termed the INITIATIVE. With the ability to initiate laws, the electorate can either place a proposition directly on the ballot or it can submit the proposed law to the Legislature at the regular legislative session, thereby allowing the elected representatives an opportunity to enact the proposed legislation themselves instead of placing the matter on the ballot.

The REFERENDUM allows citizens, through the petition process, to refer acts of the Legislature to the ballot before they become law. The referendum also permits the Legislature itself to refer proposed legislation to the electorate for approval or rejection.

The initiative and referendum process guarantees Washington's electorate the right to legislate. Sponsors of initiative or referendum measures must, however, obtain a substantial number of petition signatures from registered voters in order to certify their measures to the ballot or to the Legislature.

Despite the organization and effort required to place a measure on the ballot, Washington's history has shown the initiative and referendum processes to be effective in protecting the people's interests. In fact, many of our most significant laws, such as our blanket primary election system and public disclosure law, were enacted by this process.

This manual is designed to inform citizens about the initiative and referendum processes and to serve as a guide to those who wish to exercise these important constitutional rights.

SAM REED
Secretary of State

Filing Initiatives and Referendums in Washington State

Overview

The Washington State Constitution affords voters two basic methods of direct legislative power – the Initiative and the Referendum. While differing in process, both initiatives and referendums have the same effect of leaving the ultimate authority to legislate in the hands of the people.

The Initiative

The initiative process is the direct power of the voters to enact new laws or change existing laws. It allows the electorate to petition to place proposed legislation on the ballot. The initiative's only major limitation is that it *cannot* be used to amend the state constitution.

There are two types of initiatives:

- **Initiatives to the People**, if certified to have sufficient signatures, are submitted for a vote of the people at the next state general election.
- **Initiatives to the Legislature**, if certified, are submitted to the Legislature at its regular session each January. Once submitted, the Legislature must take one of the following three actions:
 - The Legislature can adopt the initiative as proposed, in which case it becomes law without a vote of the people;
 - The Legislature can reject or refuse to act on the proposed initiative, in which case the initiative must be placed on the ballot at the next state general election; or
 - The Legislature can approve an amended version of the proposed initiative, in which case both the amended version and the original proposal must be placed on the next state general election ballot.

Initiatives submitted to the people require a simple majority of voter approval to become law (except for gambling or lottery measures which require 60 percent approval).

To be certified to the ballot or Legislature, the sponsor of either type of initiative must first circulate the complete text of the proposal among voters and obtain a number of

legal voter signatures equal to eight (8) percent of the number of votes cast for the office of Governor at the last regular gubernatorial election (*see page 7*).

The Referendum

There are two types of referendums: the referendum bill and the referendum measure. The primary purpose of both is to give voters an opportunity to approve or reject laws either proposed or enacted by the Legislature. The only acts that are exempt from the power of referendum are emergency laws — those that are necessary for the immediate preservation of the public peace, health or safety, and the support of state government and its existing institutions.

The two types of referendums are as follows:

- **Referendum Measures** are laws recently passed by the Legislature that are placed on the ballot because of petitions signed by voters.
- **Referendum Bills** are proposed laws referred to the electorate by the Legislature.

Referendum measures must be certified by the Secretary of State to have a number of petition signatures of legal voters equal to four (4) percent of the total votes cast for the office of governor in the last regular gubernatorial election (*See page 7*).

A referendum certified to the ballot must receive a simple majority vote to become law (except for gambling and lottery measures which require 60 percent approval).

Who can propose an initiative or referendum?

- **Initiative** – Any registered voter, acting individually or on behalf of an organization, may propose legislation to create a new state law or amend or repeal an existing statute(s).
- **Referendum** – The Legislature may stipulate in passing a law that it be submitted to the voters for their approval or rejection;

— or —

Any registered voter, acting individually or on behalf of an organization, may demand, by petition, that a law passed by the Legislature be referred to a vote of the electorate prior to its going into effect (except emergency legislation, which, as noted above, is exempt from the referendum process).

Procedures for starting an initiative or referendum

Filing with the Public Disclosure Commission

Washington State's Public Disclosure Law was approved by voters in 1972. This act authorizes the state Public Disclosure Commission (PDC) to administer the law and to promulgate rules and regulations to implement the law.

Requirements under this law stipulate that any person, organization or committee which expects to receive funds or make expenditures in an effort to *support or oppose* any initiative or referendum *must register with the Commission* and file certain financial reports.

The sponsor of an initiative or referendum should contact the Commission in conjunction with the preliminary filing of the measure.

Filing an Initiative or Referendum Measure

The sponsor must file a printed or typewritten copy of the complete text of the proposed initiative or referendum with the Secretary of State. Each proposed measure, when filed with the Secretary of State, must be accompanied by a filing fee of five dollars (\$5.00) and a sworn affidavit that the sponsor is a legal voter of this state (*see affidavit samples pp 15 and 17*).

Sponsors should note that affidavits, text of proposed measures, and related documents are public records. Lists of initiative filings are posted on the Secretary of State's Internet Web site (www.secstate.wa.gov) and are routinely made available to the public, the news media, and others.

Initiatives and referendums must be filed with the Secretary of State during the following periods:

- **Initiatives to the people** must be filed within 10 months prior to the next state general election, and the petitions must be filed not less than 4 months before such general election.
- **Initiatives to the Legislature** must be filed within 10 months prior to the next regular session of the Legislature, and the petitions must be filed not less than 10 days before such regular session of the Legislature.
- A **referendum measure** may be filed any time after the Governor has signed the act that the sponsor wants referred to the ballot. Signature petition sheets must be filed within 90 days after the final adjournment of the legislative session at which

the act was passed. The referendum is then submitted at the next state general election.

(For specific deadline dates, check the Online Election Calendar at www.secstate.wa.gov/elections, or contact the Secretary of State's office. See page 10 for contact information)

Preparation and Drafting

A copy of the text of a proposed initiative is sent to the office of the Code Reviser by the Secretary of State immediately after filing. The Code Reviser must, within seven (7) *working* days, perform the following:

- Review the draft for technical errors and style;
- Advise the sponsor of any potential conflicts between the proposal and existing statutes; and
- Return the proposal with a "certificate of review" to the sponsor with any recommended changes. All changes made by the Code Reviser are advisory and are subject to approval by the sponsor.

The sponsor has 15 *working* days after the submittal of the initiative to the Code Reviser to file the final draft of the measure, accompanied by the Code Reviser's certificate of review, with the Secretary of State. If the sponsor has made changes in the final draft as prepared by the Code Reviser, those changes should be initialed by the sponsor prior to filing that draft with the Secretary of State.

At this point, the Secretary of State will assign a serial number to the proposal and forward the initiative measure to the office of the Attorney General for formulation of the ballot title and summary. Referendum measures are *not* reviewed by the Code Reviser; they are immediately assigned a serial number and transmitted to the Attorney General.

*DRAFTING NOTE: The Washington State Supreme Court recently issued a decision which affects the permissible contents of initiatives. The court held, in part, that an act must have only one subject, and the subject of the act must be contained in the act's title. The court also ruled that acts amended or revised by an initiative must be set forth in full. There are other legal opinions by the State Supreme Court effecting these same aspects of initiatives and referendums and dealing with related questions not at issue in the most recent case. Sponsors should consult an attorney if they have any questions about the application of this recent ruling (*Amalgamated Transit Union v. State of Washington*) or any previous decision by the court to the proposal which they wish to sponsor.*

Ballot Title

Upon receipt of a proposed ballot measure, the Attorney General has five (5) *working* days to formulate and return a ballot title and a summary to the Secretary of State.

The **ballot title** consists of three parts:

1. A statement of the subject of the petition that is:
 - No more than 10 words;
 - Impartial and nonargumentative in nature; and
 - Sufficiently broad to reflect the subject of the measure.
2. A concise description of the measure that is:
 - No more than 30 words;
 - Impartial and nonargumentative in nature; and
 - Phrased to clearly identify the proposition to be voted on.
3. A question that clearly defines the intent of the voter.

The **ballot summary** must be:

- No more than 75 words; and
- Impartial and nonargumentative in nature.

Immediately after receiving the ballot title and summary, the Secretary of State must notify the sponsor by telephone and by mail of the wording of the ballot title.

Any person dissatisfied with either the ballot title or summary prepared by the Attorney General may seek judicial review of those statements by petitioning the Thurston County Superior Court in Olympia. Such action must be taken within five (5) days of the filing of those statements with the Secretary of State and the court is required to expeditiously review the statements and render a decision within five (5) days. The decision of the court is final.

Petition Form and Content

After filing the proposal and obtaining an official serial number and a ballot title and summary, the sponsor of an initiative or referendum measure may print signature petition sheets (sheets are printed at the sponsor's own expense). The Secretary of State may reject any petition that does not meet statutory requirements. The statute requires:

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- Petitions must be printed on sheets of good quality paper. (Petitions printed on newsprint will be accepted by the Secretary of State, assuming other statutory requirements are met.)
 - The petition sheets must measure not less than 11 inches in width and not less than 14 inches in length.
 - The following must be printed on the *front* of each petition sheet:
 - The official ballot title and summary as prepared by the Attorney General;
 - The serial number assigned by the Secretary of State;
 - The heading specified by RCW 29.79.090, 29.79.100 or 29.79.110;
 - Not more than 20 numbered lines, each with space for a voter's signature, his/her printed name and his/her legal voting address; and
 - The following warning, which must occupy not less than four (4) square inches:

"Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter or makes any false statement on this petition may be punished by fine or imprisonment or both."

- The full text of the measure must appear on the petition. To verify the signatures on any petition, the Secretary of State must be able to ascertain that the signer, at the time of signing the petition, had the opportunity to read the complete text of the measure.

Circulation of Petitions

State law prescribes certain rules for collecting signatures for initiative and referendum petitions. Failure by solicitors and/or signers to adhere to these rules can result in criminal prosecution.

Any person soliciting signatures should be fully aware of the following rules:

- Only legally registered Washington voters may sign a petition.
- Voters should record, on the line with their signatures, **the address at which they are registered to vote.**

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- Voters should print their names in the space provided in order to facilitate the validation of their signature.

Signature requirements for validation of an initiative or referendum

The Washington State Constitution requires that initiative and referendum measures contain a specified number of legal voter signatures in order to be certified for either the ballot or the Legislature. Those specified numbers are as follows:

- **Initiatives** – Initiative petitions must bear a number of legal voter signatures equal to or in excess of eight (8) percent of the total number of votes cast for the office of Governor at the last regular state gubernatorial election.
- **Referendum Measures** – Petitions to refer of an act of the Legislature to the people must bear a number of legal voter signatures equal to or in excess of four (4) percent of the total number of votes cast for the office of Governor at the last regular state gubernatorial election.

Based on the gubernatorial vote at the 2000 state general election, the following signature requirements will be in effect through the year 2004:

- Initiatives to the people or to the Legislature require **197,734** valid signatures.
- Referendum measures require **98,867** valid signatures.

Since a certain percentage of petition signatures are normally found to be invalid due to duplication and non-registration, it is recommended that sponsors file as many signatures as possible. While no number of signatures can guarantee sufficient valid signatures, a "cushion" of 20% should prove sufficient to qualify the measure for the ballot, assuming the petition has a normal rate of invalidation.

Procedures for filing initiative and referendum petitions

The sponsor should notify the Secretary of State at least two to three days in advance of filing petition sheets. This will enable the office to have sufficient staff available to verify the number of petition sheets which will be filed.

Petitions should be **unfolded** and organized in bundles of 50 petition sheets each.

The petitions must clearly bear the minimum number of legal voter signatures needed for certification in order for the Secretary of State to accept the measure for a complete signature check.

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- The Secretary of State may reject petitions clearly short of the minimum requirements.
 - Additional petition sheets may be filed before the filing deadline, but the original filing must contain at least the minimum number of signatures.
 - The Secretary of State may reject any petition not in the proper form.

The sponsor may appeal the Secretary of State's rejection of an initiative or referendum petition by filing an action with the Thurston County Superior Court within ten days of the rejection.

Filing deadlines for initiative and referendum petitions are as follows:

- Petitions supporting an **initiative to the people** must be filed with the Secretary of State no later than four (4) months before the date of the state general election.
- Petitions supporting an **initiative to the Legislature** must be filed with the Secretary of State no later than 10 days before a regular session of the Legislature convenes.
- Petitions supporting a **referendum measure** must be filed with the Secretary of State no later than 90 days after adjournment of the legislative session at which the act to be referred was passed.

(For specific deadline dates, check the Online Election Calendar at www.secstate.wa.gov/elections, or contact the Secretary of State's office. See page 10 for contact information)

Petitions must be filed not later than the close of business (5:00 p.m.) on the last business day in the specified period for submission of signatures. If a filing deadline falls on a Saturday, the office of the Secretary of State will be open on that Saturday for the transaction of business from 8:00 am to 5:00 p.m.

Validating petition signatures

Petitions filed with the Secretary of State will be checked for repeated signatures and for the signers' status as legal Washington voters. Only one signature per voter will be counted.

State law prescribes that under certain circumstances, the Secretary of State may check a randomly-selected sampling of signatures submitted in support of an initiative or referendum. This "random sample" process may only be used when the number of signatures filed is substantially in excess of the minimum needed to validate the measure.

Random sampling is used to project the proportion of invalid signatures on the initiative or referendum petitions.

- If the random sampling, when applied to the total number of signatures submitted, indicates that the number of valid signatures is equal to or in excess of the minimum needed, the measure is certified.
- If the random sampling indicates that the number of valid signatures is less than the number required by the state constitution, the Secretary of State will proceed to verify each signature not checked during the sampling process. (The random-sample process may not be used to reject an initiative or referendum).

Both proponents and opponents of a petitioned measure may have designated representatives present during the check of signatures. The Secretary of State has the statutory authority to establish rules of conduct for such observers and may limit the number of such observers should it be deemed necessary.

Both parties have the right to appeal the Secretary of State's final determination of the number of valid signatures.

Certification of initiative and referendum measures

If sufficient signatures are validated on a referendum or an initiative to the people, a certification containing the measure's serial number and title will be transmitted to each county for placement on the state general election ballot.

A certified copy of each initiative to the Legislature will be transmitted to the Legislature as soon as it convenes its regular session. When the signature canvass is completed, the Secretary of State shall notify the Legislature of the results of that canvass.

Initiative and referendum measures in the State Voters Pamphlet

One of the primary purposes of the Washington State Voters Pamphlet is to provide voters with information regarding various measures – including initiatives and referendums – appearing on the statewide ballot.

The voters pamphlet must include the following information on each ballot measure to be voted on:

- The serial number, ballot title, and complete text of each measure;
- A brief statement, prepared by the Attorney General, explaining the law as it exists;

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- A brief statement, prepared by the Attorney General, explaining the effect of the proposed measure should it be approved into law;
 - The total number of votes cast for and against the measure in both the state Senate and the House of Representatives if the measure has been approved by the Legislature;
 - Written statements of no more than 250 words in length advocating the voters' approval of the measure and advocating the voters' rejection of the measure; and
 - Written statements of no more than 75 words in length rebutting the statement advocating approval and the statement advocating rejection of the measure.

The Secretary of State, the President of the Senate and the Speaker of the House of Representatives are required to appoint a committee to prepare the statement advocating approval of an initiative or referendum measure, and a committee to prepare the statement advocating rejection of that measure.

The two committees are to be composed of one senator and one representative, and a third person whom they are to choose. The persons selected are to be known for their support or opposition to the measure, respective to the committee on which they serve.

Assistance and information

Further questions about the initiative or referendum process should be directed to:

Initiative Coordinator
Elections Division
Office of the Secretary of State
PO Box 40237
Olympia, WA 98504-0237

Telephone: 360/902-4151
(TDD: 1-800-422-8683)
Fax: 360/664-2971

E-Mail: elections@secstate.wa.gov
Internet: www.secstate.wa.gov



**If you need this material in an alternative format,
please contact us at the numbers listed above.**

Initiative and Referendum Process Checklist

The following checklist is designed to assist sponsors with the initiative and referendum process.

- ☐ File preliminary draft of proposed initiative or referendum, affidavit of sponsorship, and filing fee with Secretary of State.
- ☐ Contact Public Disclosure Commission.
- ☐ Initiative measures sent to Code Reviser and changes (if any) approved by sponsor.
- ☐ Approve and file final draft of initiative with the Secretary of State.
- ☐ Initiative number assigned by Secretary of State.
- ☐ Ballot title and summary written by the Attorney General.
- ☐ Petitions printed.
- ☐ Petitions circulated among voters.
- ☐ Petitions filed with the Secretary of State.

Once petitions are submitted, the following steps are taken:

- Petition sheets are counted by the Secretary of State and sponsor is given a receipt indicating the total number of sheets received.
- Petition sheets are microfilmed.
- Signatures are counted and compared against voter registration records by the Secretary of State.
- If sufficient valid signatures are present, the Secretary of State certifies the measure to the ballot or, in the case of initiatives to the Legislature, to the state House and Senate.
 - If the Legislature adopts an initiative to the Legislature as submitted, it becomes law without going to the ballot.
 - If Legislature rejects or takes no action on an initiative to the Legislature, the measure is then certified to the ballot.
 - If the Legislature approves an alternative to an initiative to the Legislature, then both the original initiative and the amended version are certified to the ballot.
- Committees are appointed to prepare arguments and rebuttals for voters pamphlet.
- Arguments and rebuttals are submitted to Secretary of State and published in the voters pamphlet.
- Measure appears on the General Election ballot.

Frequently Asked Questions about Circulating Initiative and Referendum Petitions

The Secretary of State is frequently asked about issues specifically related to the circulation of petitions and signature gathering. The following questions and answers are designed to summarize these issues.

Can initiative petitions be circulated on public property, like sidewalks, parks or libraries?

If you want to circulate petitions on public property, it would be a good idea to talk to the unit of government involved about any concerns they might have, including whether there might be any permit requirements. (For example, a federal regulation prohibits solicitation of petition signatures at post offices.) There might be other legitimate restrictions or concerns involved, such as making sure that you don't block traffic or interfere with other activities that are taking place at the same time.

I've heard that the sponsors of an initiative or referendum have the right to circulate petitions at commercial businesses, such as shopping malls and grocery stores. Is that true?

This is partly correct. The Washington Supreme Court has long held that petition circulators have the right to gather signatures at large regional shopping malls. The court compared shopping malls to places that have traditionally served as public forums for political expression, such as a downtown business district or traditional town square, and concluded that petitions can be circulated there. The property owners can adopt reasonable time, place, and manner restrictions, but cannot prohibit petition circulation entirely.

More recently, the court has explained that this same rationale does not apply to other retail establishments, such as a grocery store. The court emphasized that it firmly believes that in general private property owners have a right to determine whether or not they will permit signature gathering on their premises. It has found a limited right to circulate petitions at large regional shopping malls that have become the functional equivalent of a town center. As a general rule, therefore, petition gathering must be allowed at large regional malls, but other retail businesses can decide for themselves whether or not they want to permit it.

How do we know which properties must permit signature gathering and which can prohibit it?

The supreme court has indicated that most private property owners can decide whether or not to permit petition circulation, with only a narrow exception. The only kind of property where the court has found a right to circulate petitions are large regional shopping malls. In some cases, it might be possible to argue as to whether a particular property meets that description. It might also be possible to argue that if a property owner has opened even a smaller premises to the public in a way that makes it the functional equivalent of the town square that the right may apply. Questions such as that would have to be resolved individually in the courts. It seems reasonable to offer a

general rule, however, that there is a right to circulate petitions at large malls, but not at other retail establishments.

Can the property owner restrict where, when, or how petitions can be circulated?

Yes, within limits. Washington courts have explained that when initiative or referendum supporters collect signatures on private property, there might be limits so that the activity does not interfere with what other people are doing on the property. Just what limits might be reasonable will depend on the circumstances, including how big the area is, the potential for blocking traffic or interfering with the business involved, or perhaps whether somebody else has already made arrangements to be on the property at a particular time. There might also be other reasonable concerns. The only case in which a Washington court has considered specific limits placed on signature gathering by a property owner is called Initiative 172 v. Western Washington Fair Assoc., 88 Wn. App. 579, 945 P.2d 761 (1997).

What if I'm against an initiative or referendum? Do I have the right to urge people not to sign a petition?

Yes, as a matter of freedom of speech. Opponents of an initiative or referendum can certainly express the opinion that it would not be a good idea for a voter to sign a petition. An opponent, however, does not have the right to interfere with the petition process. In fact, it is a gross misdemeanor to interfere with somebody else's right to sign a petition, and there are also laws against assaulting people. You can certainly express your opinion, but you must remember that other people have rights to their opinions as well, including the right to sign petitions you may not like.

This principle works both ways, of course. Neither side of an initiative or referendum campaign has the right to prevent the other from expressing opinions.

Can the Secretary of State force somebody to let me circulate petitions on their property?

No. If you believe that your rights are being violated or you want more specific guidance as to the law, it may be a good idea to consult with your own attorney. If you believe that a crime has been committed, you should contact your local police or sheriff.

If I am asked to sign a petition, am I entitled to read the petition or the proposed measure before I make up my mind?

Yes. State law requires that petitions contain certain information, including the full text of the measure. This includes a ballot title and summary, written by either the Attorney General or a Superior Court judge, and other required information. The full text is usually printed on the back of the petition. Sometimes petition circulators attach the petitions to clip boards in order to make them easier to sign or easier for the circulator to handle. Sometimes the full petition or the full text of the proposal might be folded over or on the back. You should feel free to read any part of the petition that you think is necessary in order for you to make up your mind, even if that means unfolding it or removing it from a clip board.



State of Washington

AFFIDAVIT FOR PROPOSED INITIATIVE

State of Washington)
) ss.
County of _____)

I, _____, am a registered voter residing at:
Enter your name as recorded on your voter registration – **Please Print**

Street Address or Rural Route City

County, Washington ZIP Code Telephone No. (w/ Area Code)

I herewith submit a proposed Initiative to the (*check one*) ☐ People ☐ Legislature in the form
appended hereto and request that the Secretary of State file same and assign an Initiative
number, and do further request that the Attorney General supply a ballot title.

Signature of Sponsor

I certify that I know or have satisfactory evidence that

is the person who appeared before me, and said person acknowledged that
(he/she) signed this instrument and acknowledged it to be (his/her) free and
voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

Notary's Signature
Notary Public in and for the state of Washington.

My appointment expires _____

NOTE

The Secretary of State routinely publishes lists of proposed initiatives, including sponsor addresses and telephone numbers.
Initiative sponsors may have alternative contact information published by providing the information in the space below.
Please keep in mind that all information provided in this affidavit is public record and is subject to public disclosure.

Address City ZIP Code

Telephone No. (w/ Area Code) Fax No. (w/ Area Code) E-mail



State of Washington

AFFIDAVIT FOR PROPOSED REFERENDUM MEASURE

State of Washington)
) ss.
County of _____)

I, _____, am a registered voter residing at:
Enter your name as recorded on your voter registration – **Please Print**

Street Address or Rural Route City
_____, Washington
County ZIP Code Telephone No. (w/ Area Code)

I herewith submit a proposed Referendum measure on _____ in the form
Legislative Bill Number
appended hereto and request that the Secretary of State file same and assign a Referendum
number, and do further request that the Attorney General supply a ballot title.

Signature of Sponsor

I certify that I know or have satisfactory evidence that

is the person who appeared before me, and said person acknowledged that
(he/she) signed this instrument and acknowledged it to be (his/her) free and
voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

Notary's Signature
Notary Public in and for the state of Washington.

My appointment expires _____

NOTE

The Secretary of State publishes lists of proposed referendums, including sponsor addresses and telephone numbers.
Referendum sponsors may have alternative contact information published by providing the information in the space below.
Please keep in mind that all information provided in this affidavit is public record and is subject to public disclosure.

Address City ZIP Code

Telephone No. (w/ Area Code) Fax No. (w/ Area Code) E-mail